

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARPEAH NYENKOR,

Petitioner,

v.

THE STATE OF NEW YORK, et al.,

09 Civ. 8719 (DAB)
ADOPTION OF REPORT
AND RECOMMENDATION

Respondents.

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DEBORAH A. BATTIS, United States District Judge.

This matter is before the Court upon the October 29, 2013 Report and Recommendation of United States Magistrate Judge Lisa Margaret Smith (the "Report"). Judge Smith's Report recommends that the Court deny Petitioner's Petition for a Writ of Habeas Corpus. (Report 1, 22.)

"Within fourteen days after being served with a copy [of a magistrate judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The Court may adopt those portions of the Report to which no timely objection has been made, as long as there is no clear error on the face of the record. DiPilato v. 7-Eleven, Inc., 662 F. Supp. 2d 333, 339 (S.D.N.Y. 2009). "[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008)

(quoting Small v. Sec'y of Health & Hum. Servs., 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review" Small, 892 F.2d at 16.

Despite being advised of the procedure for filing objections in Judge Smith's Report, and warned that failure to file timely objections would preclude appellate review (Report 22-23), Petitioner has filed no objections to the Report. Nor has any other Party filed objections to the Report.

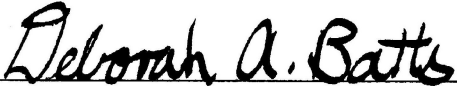
Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge Lisa Margaret Smith, filed October 29, 2013, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety. Petitioner's Petition for a Writ of Habeas Corpus is DISMISSED.

Because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability shall not issue. 28 U.S.C. § 2253. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v.

United States, 369 U.S. 438, 444-45 (1962) .

SO ORDERED .

Dated: New York, New York
February 25, 2014


Deborah A. Batts
United States District Judge